

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

CLIFFORD N. HABECKER, )  
Plaintiff, )  
v. ) Case No. CIV-08-574-R  
OKLAHOMA DEPARTMENT OF )  
CORRECTIONS, et al., )  
Defendants. )

## ORDER

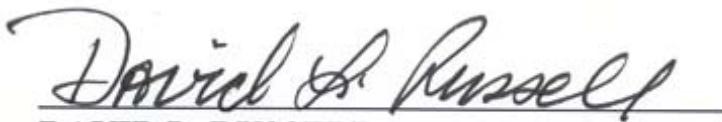
Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie K. Couch entered May 22, 2009. Doc. No. 53. Also before the Court is Plaintiff's Objection to the Report and Recommendation. Doc. No. 62. Plaintiff's only objection is that his consent was not obtained for the Magistrate Judge to act in this case, as he contends was necessary pursuant to 28 U.S.C. § 636(c)(1). Plaintiff's objection is without merit. The order referring this case to the Magistrate Judge for proposed findings and recommendations was made pursuant to 28 U.S.C. § 636(b)(1)(B) & (C), as stated in the Court's order of referral entered June 2, 2008 [Doc. No. 5], *not* pursuant to 28 U.S.C. § 636(c)(1). Plaintiff's consent to that referral was not required. *See* 28 U.S.C. § 636(b)(1)(B) & (C).

Plaintiff seems to suggest that he should have a further opportunity to object to the contents of the Report and Recommendation when this current objection is resolved. *See* Objection at p. 3. However, Plaintiff was given almost two extra months beyond the 20-day

period for filing an objection to the Report and Recommendation and could have included in his objection any objections to the substance of the Report and Recommendation. No further extension of time for objections is warranted.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety; Defendants' motion to dismiss, construed in part as a motion for summary judgment, is GRANTED; and Plaintiff's application for a temporary restraining order is DENIED.

IT IS SO ORDERED this 11<sup>th</sup> day of August, 2009.



DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE